

IN THE STATE COURT OF BIBB COUNTY
STATE OF GEORGIA

JARRETT LITTLE and CINDY LITTLE, as
guardians and natural parents of LINDSEY
LITTLE,

Plaintiffs,

v.

ALONZO K. McCLURE; ALEX LEE, Inc.;
MERCHANTS DISTRIBUTORS, Inc. OF
NORTH CAROLINA; MERCHANTS
TRANSPORT OF HICKORY, Inc. and THE
TRAVELERS INDEMNITY COMPANY OF
CONNECTICUT,

Defendants.

CIVIL ACTION NO.

79673

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**SECOND
ORIGINAL**

COMPLAINT

COME NOW, Jarrett Little and Cindy Little as guardians and natural parents of Lindsey Little, Plaintiffs, and respectfully show the Court the following:

VENUE AND PARTIES

1.

By virtue of the incident described in this Complaint having occurred in Bibb County, Georgia, and by virtue of the facts alleged herein, venue and jurisdiction in this Court are proper.

2.

Defendant ALONZO K. McCLURE is a resident of the State of North Carolina and resides at 801 Wilson Avenue SW, Valdese, North Carolina 28690, and by virtue of the facts alleged herein, and as a joint tortfeasor, is subject to the jurisdiction of this Court pursuant to the Long Arm Statute, O.C.G.A. § 9-10-91, *et seq.*

3.

Defendant ALEX LEE, Inc., a foreign corporation, not authorized to do business in the State of Georgia, with its principle place of business in Hickory, Catawba County, North Carolina, is subject to the jurisdiction of this Court as a joint tortfeasor pursuant to the Long Arm Statute, O.C.G.A. § 9-10-91, *et seq.* Defendant may be served by delivering a copy of the Summons and Complaint to President/CEO George L. Boyd, via Sheriff of Catawba County, North Carolina.

4.

Defendant MERCHANTS DISTRIBUTORS, Inc., a corporation authorized to transact business in the State of Georgia, is subject to the jurisdiction of this Court as a joint tortfeasor and may be served by delivering a copy of the Summons and Complaint to its registered agent for service, United States Corporation Company, 40 Technology Parkway South, #300, Norcross, Gwinnett County, Georgia 30092.

5.

Defendant MERCHANTS DISTRIBUTORS, Inc. is a commercial motor common carrier as defined by O.C.G.A. § 46-1-1.

6.

Defendant MERCHANTS TRANSPORT OF HICKORY, Inc., a corporation authorized to transact business in the State of Georgia, is subject to the jurisdiction of this Court as a joint tortfeasor and may be served by delivering a copy of the Summons and Complaint to its registered agent for service, United States Corporation Company, 40 Technology Parkway South, #300, Norcross, Gwinnett County, Georgia 30092.

7.

Defendant MERCHANTS TRANSPORT OF HICKORY, Inc. is a commercial motor common carrier as defined by O.C.G.A. § 46-1-1.

8.

Defendant THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, covered Defendant ALEX LEE, Inc. d/b/a MERCHANTS DISTRIBUTORS, Inc. OF NORTH CAROLINA with a policy of insurance at all pertinent times to this Complaint. Said policy was written and provided to protect the public against injury to person and property proximately caused by the negligence of such carrier, its servants or agents. This direct action is, therefore, permitted by O.C.G.A. § 46-7-12.

9.

Defendant THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT is subject to the jurisdiction and venue of this Court, and may be served by delivering a copy of the Summons and Complaint to its registered agent for service, Corporation Service Company, 40 Technology Parkway South, #300, Norcross, Gwinnett County, Georgia 30092.

10.

At all times relevant to the allegations made herein, Defendant ALONZO K. McCLURE was operating a tractor and trailer owned by Defendant MERCHANTS DISTRIBUTORS, Inc. OF NORTH CAROLINA.

11.

Defendant ALONZO K. McCLURE and Defendant MERCHANTS DISTRIBUTORS, Inc. OF NORTH CAROLINA were operating under the motor common carrier license, shield, and authorization of Defendant MERCHANTS DISTRIBUTORS, Inc. OF NORTH CAROLINA

and MERCHANTS TRANSPORT OF HICKORY, Inc., at all pertinent times to this Complaint, and MERCHANTS DISTRIBUTORS, Inc. OF NORTH CAROLINA and MERCHANTS TRANSPORT OF HICKORY, Inc.'s authorization, shield, and DOT number were displayed on the tractor at the time of this collision.

12.

Defendant ALONZO K. McCLURE was the agent, servant, or employee of Defendants ALEX LEE, Inc., MERCHANTS DISTRIBUTORS, Inc., and/or MERCHANTS TRANSPORT OF HICKORY, Inc. at all pertinent times to this Complaint, and was acting within the scope of that employment at the time of the collision. Any negligence on the part of Defendant ALONZO K. McCLURE is imputable to Defendants ALEX LEE, Inc. d/b/a MERCHANTS DISTRIBUTORS, Inc. OF NORTH CAROLINA, MERCHANTS DISTRIBUTORS, Inc., and/or MERCHANTS TRANSPORT OF HICKORY, Inc. by virtue of vicarious liability, *respondeat superior*, as well as the laws of agency in Georgia.

FACTUAL ALLEGATIONS

13.

Defendants have injured and damaged Plaintiffs by reason of the facts set out below.

14.

On Monday, February 20, 2012, at approximately 11:05 a.m., Lindsey Little, the minor daughter of Plaintiffs Jarrett Little and Cindy Little, was operating a 1996 Honda Civic in the right westbound lane of I-16 approaching its intersection with I-75 in Macon, Bibb County, Georgia.

15.

At the same time, Defendant ALONZO K. McCLURE was operating a 2012 Freightliner, VIN 1FJJGLDRXCLBJ9120 and trailer, owned by MERCHANTS DISTRIBUTORS, Inc. OF NORTH CAROLINA in the middle westbound lane of I-16 near its intersection with I-75.

16.

As Defendant ALONZO K. McCLURE drove his tractor and trailer alongside the Honda Civic driven by Lindsey Little, Defendant ALONZO K. McCLURE began to move his vehicle from the middle lane to the right lane occupied by Lindsey Little, striking the 1996 Honda Civic operated by Lindsey Little with great force and violence, and then dragging the Honda Civic under his trailer for approximately 625 feet.

17.

Confronted with the sudden emergency of Defendant's tractor trailer crushing her vehicle around her, and in great fear for her life, Lindsey Little exited her vehicle on the passenger side as Defendant continued dragging her vehicle along the roadway.

18.

Defendant's tractor trailer ultimately came to rest in the emergency lane, crushing Lindsey Little's vehicle between the trailer and the guard rail.

19.

As a result of the collision complained of in this Complaint, Lindsey Little has sustained terrible and debilitating injuries from which she did then suffer, now suffers, and will continue to suffer great pain of body and mind, and Plaintiffs show further that they have incurred expenses in the nature of medical bills and lost income.

20.

Plaintiffs show that all of their injuries, damages and suffering were the direct result of, and proximately caused by, the negligence of the Defendants.

21.

Defendant ALONZO K. McCLURE was negligent in the following particulars:

- A. In moving his vehicle from one lane to another when it was unsafe to do so, in violation of O.C.G.A. § 40-6-48;
- B. In failing to make reasonable and proper observations while driving; or, if reasonable and proper observations were made, failing to act on them; and
- C. Defendant was otherwise negligent.

22.

Defendant ALEX LEE, Inc. d/b/a MERCHANTS DISTRIBUTORS, Inc. OF NORTH CAROLINA, MERCHANTS DISTRIBUTORS, Inc., and/or MERCHANTS TRANSPORT OF HICKORY, Inc. were negligent in the following particulars:

- A. In negligently hiring and retaining Defendant ALONZO K. McCLURE;
- B. In failing to adequately train Defendant ALONZO K. McCLURE; and
- D. Defendant was otherwise negligent.

WHEREFORE, Plaintiffs pray for the following:

- A. That process and summons issue, as provided by law, requiring Defendants to appear and answer Plaintiffs' Complaint;
- B. That Plaintiffs have a trial by a fair and impartial jury of twelve members;

- C. That Plaintiffs obtain a judgment against Defendants in a just and reasonable amount to compensate Plaintiffs for their injuries, damages and suffering;
- D. That the costs of bringing this action be taxed against the Defendants; and
- E. That Plaintiffs have such other and further relief as this Court shall deem just and equitable.

RESPECTFULLY SUBMITTED this 23 day of March, 2012.



KATHERINE L. McARTHUR
Ga. Bar No. 480730



CALEB F. WALKER
Ga. Bar No. 431765

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6055 Lakeside Commons Drive, Suite 400
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S U M M O N S

TO THE ABOVE-NAMED DEFENDANT: ALEX LEE, Inc.

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address are:

KATHERINE L. MCARTHUR
6055 LAKESIDE COMMONS DRIVE
SUITE 400
MACON, GEORGIA 31210
478-238-6600

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 27 day of March, 2012.

Clerk of State Court

BY:

Lillian Hawke
Deputy Clerk